



# REASONABLE ACCOMMODATIONS IN EMPLOYMENT

## 1. Purpose

This policy and procedure was developed to provide guidance to, and the process through which qualified employees with a disability may request reasonable accommodation; and the manner in which departments should consider and review those requests.

## 2. Scope

This policy covers all City of Woodburn employees and employment applicants in all employment policies and practices.

## 3. Definitions

Direct threat: A significant risk of substantial harm to the health, safety or well-being of individuals with disabilities or others that cannot be eliminated or reduced by reasonable accommodation.

Disability: A physical or mental impairment that substantially limits one or more major life activities of the individual, or a record of such an impairment, or being regarded as having such an impairment.

Essential functions of the job: Term refers to those job activities that are determined by the employer to be essential or core to performing the job; these functions cannot be modified. Functions of a position are considered essential if the position exists to perform the function; or, there are a limited number of other employees available to perform the function or among whom the function can be distributed; or a function is highly specialized and the person in the position is hired for his/her expertise or ability to perform the function.

Major life activities: Term includes caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

Qualified individual: An individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.

Reasonable accommodation: Modification or adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to participate in the application process or to perform essential job functions.

Reasonable accommodations may include any changes to the work environment and may include making existing facilities readily accessible to and usable by individuals with disabilities, such as job restructuring, modified work schedules, telecommuting, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

Undue hardship: An action that requires significant difficulty or expense, considered in light of the effect on expenses and resources or the impact of such accommodation upon the business operation of an entity. In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include:

- The nature and cost of the accommodation.
- The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, the effect on expenses and resources, or the impact of such accommodation on the operation of the facility.
- The overall financial resources of the employer; the size, number, type and location of facilities.
- The type of operations of the company, including the composition, structure and functions of the workforce; administrative or fiscal relationship of the particular facility involved in making the accommodation to the employer.

#### **4. Policy**

It is the policy of the City of Woodburn to provide reasonable accommodation to qualified individuals with disabilities so that they can perform the essential functions of a job, unless doing so causes a direct threat to an individual or others in the workplace and the threat cannot be eliminated by reasonable accommodation, or if the accommodation creates an undue hardship to the City.

The City also provides reasonable accommodations in connection with the provision of City services, programs and activities to the public under Title II which is covered under another policy.

## **5. Procedures**

- A. Any current employee, or his/her representative, may request reasonable accommodation. A family member, friend, health care professional, or other representative may request a reasonable accommodation on behalf of an individual with a disability.
- B. While an employee's request for reasonable accommodation need not be in writing or in any specific form, the City may provide to an employee to fill out, or fill out on behalf of an employee, a Reasonable Accommodation Request Form to document that a request has been made. Completed forms should be submitted to the Human Resource Director.
- C. The Human Resources Director is available as a resource in the preparation, explanation, and dissemination of reasonable accommodation information and technical assistance to the employees.
- D. All employees or candidates with known limitations related to pregnancy related medical conditions including lactation are eligible without a waiting period for reasonable accommodations. These could be but not limited to acquisition of modification of equipment or devices; more frequent break periods or periodic rest; assistance with manual labor or modification of work schedules or assignments. Any employee who informs the employer of the employee's pregnancy, within 10 days shall be provided information regarding their right to reasonable accommodations.
- E. After a request for accommodation has been made, the employee and the City will initiate the interactive process to determine what, if any, accommodation should be provided. Communication is a priority throughout the entire process, but particularly where the specific limitation, problem, or barrier is unclear; where an effective accommodation is not obvious; or where different forms of reasonable accommodation are available.
- F. The determination whether to provide an accommodation is made on a case-by-case basis. This is an individual process through which the City and the individual with a disability discuss and arrange for the necessary and reasonable accommodation(s). The City will make a "reasonable effort" to determine the appropriate

accommodation. Primary consideration is given to the preferences of the individual when deciding on an accommodation; however, the City has the ultimate discretion to choose between effective accommodations.

- G. The City may utilize the Accommodation Committee to determine if a request would impose an undue hardship on the operation of the City's business. The Committee consists of the City Attorney, the HR Director and the employee's department director. In situations where the accommodation may impact the terms and conditions of the collective bargaining agreement of a represented employee, the City will invite the union management to discuss the accommodation with the Accommodation Committee. The confidentiality of the employee's medical information shall be maintained and medical information shall not be shared with the Committee.
- H. In considering a request for accommodation the City will consider the following:
- i. Analyze the job or activity to determine the essential functions.
  - ii. Determine, with the employee, how the disability limits the employee's performance of the essential functions.
  - (c) Identify accommodation options that overcome limitations and determine the effectiveness and feasibility of the proposed accommodations.
  - (d) Select the accommodation most appropriate for the employee and the City, considering the employee's preference.
- I. The City may not compel an individual with a disability to use an accommodation that is not necessary to perform the job. The individual with a disability may decline to make a request or refuse to accept an accommodation.
- J. Examples of reasonable accommodation may include, but are not limited to:
- Making facilities accessible and usable
  - Modifying work schedules
  - Providing flexible leave
  - Reassigning to a vacant position
  - Providing assistive equipment
  - Modifying test, training materials, and policies
  - Providing qualified readers or interpreters
- K. When applicable, and when the requested accommodation is easy and/or inexpensive (i.e., a request for an ergonomic computer mouse, keyboard, or a screen glare protector), the employee's supervisor or manager may grant a modification without first establishing that the individual has a disability or going

through an interactive process. Providing a voluntary modification does not mean that the City considers the individual to be an individual with a disability or regarded as such.

- L. Medical Inquiry Following an Accommodation Request Form may be used to gather information from the employee's health care provider. These forms are kept apart from their personnel file as a separate and confidential medical record in the Human Resources Department.
- M. If the request is approved, the Human Resources Department will notify the employee and assist in making the necessary implementation arrangements. If the request is denied, the employee may appeal according to appropriate collective bargaining contract and/or the Human Resources Rules.
- N. If the interactive process indicates that an employee cannot perform the essential functions of his or her position with or without a reasonable accommodation, the City will review current vacancies for which the employee is qualified to determine if there is another position which the employee can perform, with or without an accommodation. If there are no vacancies the employee is qualified for, then the Human Resources Department may initiate due process proceedings to consider non-disciplinary discharge.
- O. Ongoing, the Human Resources Department will coordinate regular meetings with an employee and their department director to review and evaluate the effectiveness of the accommodation and the continued need for an accommodation. The employee and the City may enter into an interactive process at any time if there are any changes in circumstances.
- P. If an employment applicant has a disability that requires an accommodation in order to apply for a job, he or she must initiate the request for accommodation by contacting the Human Resources Department and identifying the adjustment or change in the application process or system that is needed because of a disability. For ease of communication and record keeping, the applicant may be provided with the City's Request for Reasonable Accommodation Form.
- Q. Because of the personal nature of some disability issues, every reasonable effort will be taken to ensure confidentiality during the entire process.

## **6. Forms**

HR-ADA/01 Employee Request for Reasonable Accommodation  
HR-ADA/02 Accommodation Response -Approval  
HR-ADA/03 Accommodation Response - Denial  
HR-ADA/04 Medical Inquiry Following an Accommodation Request  
HR-ADA/05 Accommodation Committee Review  
HR-ADA/06 ADA Accommodation Supervisor Notification  
HR-FMLA/03 Protected Leave Release of Health Information

## **7. References**

Americans with Disabilities Act, 1990

[American with Disabilities Act as Amended, 2008](#)

[ORS 659A Unlawful Discrimination against People with Disabilities](#)

The Employer Accommodation for Pregnancy Act

## **8. Review of Policy and Procedures**

This policy will be reviewed every three years or as state and federal regulations are revised and necessitate a change in the policy or procedures.

Adopted: February 2017

Reviewed: May 2021

Revised: August 2021